IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 7.12.2006

United India Insurance Company Ltd.

...Appellant.

versus

Promila and others

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.
Hon'ble Mr.Justice Mahesh Grover.

Present: Mr.Suman Jain, Advocate
for the appellant.

UMA NATH SINGH, J. (ORAL)

This FAO by the Insurance Company arises out of an award dated 26.7.2006 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Rohtak, in MACT Case No.12 of 2004, awarding a sum of Rs.9,60,000/- with 7.5% interest per annum in death case of Satbir Singh, aged about 35 years, who was employed as Land Valuation Officer in Kharkhoda Primary Co-operative Agriculture and Rural Development Bank, Kharkhoda.

Learned counsel, at the outset, fairly submitted that an application under Section 170 of the Motor Vehicles Act, 1988 (for short `the Act') moved on behalf of the Insurance Company to contest the case on merits was dismissed in March, 2006, and that order was not challenged in revision before this Court. However, learned counsel tried to build up his case only on the basis of breach of the condition of policy

submitting that summons were issued to the Licencing Authority, Hyderabad, but the concerned Clerk supposed to attend the proceedings, did not turn up with relevant records for verification. Besides, a verification report of the Investigator was placed before the Tribunal, which has been marked as `R'. Thus, as the application to contest the case on merits by the Insurance Company was rejected, and moreover, since the onus to prove that the driving licence was invalid has not been properly discharged, we are not inclined to accept this appeal. Our view is based on the ratio of the judgments of Hon'ble the Apex Court reported in (i) AIR 2004 SC 1531 (National Insurance Co.Ltd. versus Swaran Singh and others) and (ii) 2006(7) SCC 318 (Lal Chand versus Oriental Insurance Co. Ltd.).

Hence, the FAO is dismissed in limine.

(UMA NATH SINGH)
JUDGE

7.12. 2006
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(MAHESH GROVER)
JUDGE